

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 115 of 2001,
COMPANY PETITION No 157 of 1997
and
COMPANY PETITION No 245 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BOARD OPINION

Versus

AMAR POLYSTERS LTD.

Appearance:

1. COMPANY PETITION No. 115 of 2001
BOARD OPINION for Petitioner No. 1
MR ASHOK L SHAH for Respondent No. 1
NOTICE SERVED for Respondents No. 2-3
MR DEVESH A BHATT for Respondent No. 4
MR SS PANESAR for Respondent No. 5
MR RM DESAI for Respondent No. 6
MR RD DAVE for Respondent No. 7
SERVED BY RPAD - (N) for Respondent No. 8
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/02/2002

COMMON ORAL JUDGEMENT

Company Petition No. 115 of 2001 arises from the opinion dated 16.5.2001 of the Board for Industrial and Financial Reconstruction ('the BIFR' for brevity) under Section 20 of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as 'the SICA') recommending in Case No.222 of 1997 that it is just and equitable and in public interest that Amar Polysters Ltd. (the Company or the respondent - Company for brevity) be wound up.

2. Company Petition Nos. 157 and 245 of 1997 are filed by two creditors for winding up the respondent Company on the ground that the respondent Company has not paid their dues inspite of service of statutory notices. The dues of M/s Polyfil Marketing - petitioner in Company Petition No. 157 of 1997 are Rs.5,31,353/inclusive of interest as on 20.3.1997. The dues of M/s Rajasthan Spinning & Weaving Mills Ltd., petitioner in Company Petition No. 245 of 1997, are Rs.8,77,103/- inclusive of interest as on 18.6.1997.

3. The respondent Company filed a reference under the SICA in the year 1997. The Company was declared to be a sick Company. IDBI was appointed as the Operating Agency. Neither the management of the respondent Company submitted any viable rehabilitation proposal acceptable to the secured creditors and banks nor was there any response to the advertisement for change of management. Hence, the Operating Agency suggested that the respondent Company be wound up. After considering the views of the Operating Agency, Banks and the Government of Gujarat, the Board formed a prima facie opinion that it was not possible to offer any revival scheme for the Company and that it would be just and equitable and in public interest if the respondent Company was wound up. Even after the notice to that effect under public advertisement, nothing emerged so as to require the Board to change this opinion. The representatives of the secured creditors including IDBI, Union Bank of India, Bank of Baroda, GIIC and EPFO agreed that the Company be wound up. After hearing all the concerned parties, the Board came to the conclusion that it would be just and equitable and in public interest that the respondent Company be wound up under Section 20(1) of the Act. The said opinion dated 16.5.2001 conveyed through its Registrar's letter dated 23.5.2001 is registered as

Company Petition No. 115 of 2001.

4. Initially notices to all the concerned parties were issued on 15.6.2001 and thereafter the orders for admission and advertisements were passed on 10.10.2001 in Company Petition No. 115 of 2001. By the said order, IDBI was directed to issue advertisements for admission of the petition. Subsequently by order dated 4.12.2001 passed in Company Petition No. 157 of 1997 on the note filed on behalf of IDBI, the direction was modified and Bank of Baroda which was appointed by the BIFR as Chairman of the Assets Sale Committee was directed to issue advertisements.

The learned counsel for the parties state that accordingly Bank of Baroda has issued the advertisements which were published in Indian Express and Jansatta dated 29.12.2001.

5. In response to the advertisements, no objections are filed to the proposed winding up of the respondent Company. Mr Devesh A Bhatt for Bank of Baroda, Mr Roshan Desai for IDBI and Mr RD Dave for GSFC so also Mr Ashok Lalbhai for the respondent Company state that their respective clients have no objection to the order being passed for winding up of the respondent Company.

6. In view of the above opinion of the BIFR under Section 20(1) of the Act and no opposition from any quarters, the Court considers it to be just and equitable and in public interest that the respondent Company be ordered to be wound up.

7. Accordingly, respondent Company Amar Polyesters Ltd. is ordered to be wound up in accordance with the provisions of the Companies Act, 1956. The Official Liquidator attached to this Court is appointed as the Official Liquidator for winding up of the respondent Company.

The Official Liquidator shall exercise all the powers and discharge the duties under the provisions of the Companies Act, 1956. The Official Liquidator shall take over possession of the assets of the respondent Company and submit the inventory and valuation report by 15.3.2002.

If Bank of Baroda which was appointed as the Chairman of the Assets Sale Committee has not already got the valuation done of the properties of the Company in liquidation, the Official Liquidator shall get the same

done as expeditiously as possible and in any case by 30th April, 2002.

8. The petitions accordingly stand disposed of.

(M.S. Shah, J.)

sundar/-